

# Attachment A



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**Office of Legal Counsel**

131 M St, N. E., Fifth Floor  
Washington, D. C. 20507  
Toll Free: (877)-869-1802  
TTY (202) 663-7026  
FAX (202) 653-6056  
Website: [www.eeoc.gov](http://www.eeoc.gov)

May 7, 2019

VIA: [jwjmoeller@aol.com](mailto:jwjmoeller@aol.com)  
Mr. James W. Moeller  
4718 46th Street N.W.  
Washington, DC 20016

**Re: FOIA No.: 820-2019-010877**

Dear Mr. Moeller:

Your Freedom of Information Act (FOIA) request, received on May 01, 2019, is processed. Our search began on May 06, 2019. All agency records in creation as of May 01, 2019 are within the scope of EEOC's search for responsive records. The paragraph(s) checked below apply.

- [X] Your request is denied pursuant to the subsections of the FOIA indicated at the end of this letter. An attachment to this letter explains the use of these exemptions in more detail.
- [X] I trust that the furnished information fully satisfies your request. If you need any further assistance or would like to discuss any aspect of your request please do not hesitate to contact the FOIA Professional who processed your request or our FOIA Public Liaison (see contact information in above letterhead or under signature line).
- [X] You may contact the EEOC FOIA Public Liaison, Stephanie D. Garner, for further assistance or to discuss any aspect of your request. In addition, you may contact the Office of Government Information Services (OGIS) to inquire about the FOIA mediation services they offer.

The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, email at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at (202) 741-5770; toll free 1-877-684-6448; or facsimile at (202)741-5769.

The contact information for the FOIA Public Liaison: (see contact information in the above letterhead or under signature line).

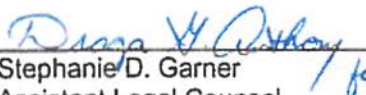
- [X] If you are not satisfied with the response to this request, you may administratively appeal in writing. Your appeal must be postmarked or electronically transmitted in 90 days from receipt of this letter to the Office of Legal Counsel, FOIA Programs, Equal Employment Opportunity Commission, 131 M Street, NE, 5NW02E, Washington, D.C. 20507, or by fax to (202) 653-6056, or by email to [FOIA@eeoc.gov](mailto:FOIA@eeoc.gov), or online at the following public access link (PAL): <https://publicportalfoiapaal.eeoc.gov/palMain.aspx>. Your appeal will be governed by 29 C.F.R. § 1610.11.

Re: FOIA No. 820-2019-010877 (James W. Moeller)

[X]

See the attached Comments page for further information.

Sincerely,

  
Stephanie D. Garner  
Assistant Legal Counsel  
Phone: (202) 663-4634  
[FOIA@eeoc.gov](mailto:FOIA@eeoc.gov)

Applicable Sections of the Freedom of Information Act, 5 U.S.C. § 552(b):

**Exemption(s) Used:**

**Exemption (b)(7)(C).**

Exemption (b)(7)(C) authorizes the Commission to withhold records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information . . . (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy. The seventh exemption applies to civil and criminal investigations conducted by regulatory agencies. *Abraham & Rose, P.L.C. v. United States*, 138 F.3d 1075, 1083 (6<sup>th</sup> Cir. 1998). Release of statements and identities of witnesses and subjects of an investigation creates the potential for witness intimidation that could deter their cooperation. *National Labor Relations Board v. Robbins Tire and Rubber Co.*, 437 U.S.214, 239 (1978). "Personal privacy" only encompasses individuals, and does not extend to the privacy interests of corporations. *FCC v. AT&T Inc.*, 131 S.Ct. 1177, 1178 (2011).

**DOCUMENTS WITHHELD PURSUANT TO THE SEVENTH EXEMPTION TO THE FOIA**

Access to charge files to which you are not a party could reasonably be expected to constitute a clearly unwarranted invasion of personal privacy, should such records exist.

**Copies of all documents and communications relating to an age discrimination complaint filed with the EEOC by Ralph Devito against Infosys in or about 2009.**

**Comments**

This is in response to your Freedom of Information Act (FOIA) request. You request copies of all documents and communications relating to an age discrimination complaint filed with the EEOC by Ralph Devito against Infosys in or about 2009 is denied under exemption (b)(7)(C).

Exemption (b)(7)(C) permits withholding of agency records to prevent an unwarranted invasion of personal privacy.

If your firm is counsel to a party to the charge, or if your firm represents the above company, please submit a new FOIA request and also submit a "filed" stamp court complaint for consideration. Also, visit our website at [www.eeoc.gov](http://www.eeoc.gov), FOIA/Privacy Act and refer to Limitations and Charge Files.

This response was prepared by Dister D. Battle, Government Information Specialist, who may be reached at via email: [dister.battle@eeoc.gov](mailto:dister.battle@eeoc.gov) or by phone at (202) 663-4500.

# Attachment B



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**Office of Legal Counsel**

131 M St, N. E., Fifth Floor  
Washington, D. C. 20507  
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May 24, 2019

Via: [jwjmoeller@aol.com](mailto:jwjmoeller@aol.com)  
Mr. James W. Moeller  
4718 46th Street N.W.  
Washington, DC 20016

Re: FOIA Appeal No.: 820-2019-000153A

Dear Mr. Moeller:

Your appeal under the Freedom of Information Act (FOIA) received on May 13, 2019, is processed. The paragraph(s) checked below apply:

- ☐ [ ] The initial determination issued on your request is completely reversed and your appeal is granted.
- ☒ [X] The initial determination issued on your request is affirmed and your appeal is denied.
  - ☐ [ ] For administrative reasons further explained in an attachment to this letter.
  - ☒ [X] Pursuant to the FOIA Exemptions cited in the initial denial of your request.
  - ☐ [ ] Pursuant to the FOIA Exemptions indicated at the end of this letter. An attachment to this letter explains the use of these exemptions in more detail.
- ☐ [ ] The initial determination issued on your request is partially affirmed/reversed/remanded and your appeal is granted/denied/remanded in part.
  - ☐ [ ] For administrative reasons further explained in an attachment to this letter.
  - ☐ [ ] Pursuant to the FOIA Exemptions cited in the initial denial of your request.
  - ☐ [ ] Pursuant to the FOIA Exemptions indicated at the end of this letter. An attachment to this letter explains the use of these exemptions in more detail.
- ☐ [ ] Your appeal is remanded in its entirety. An attachment to this letter further explains the decision to remand your appeal.
- ☐ [ ] Fees have been assessed in the amount of \$ 0.00. Manual search and review services are billed according to the personnel category of the person conducting the search. Fees for search services range from \$5.00 per quarter hour to \$20.00 per quarter hour. Direct costs are billed for computer searches and in certain other circumstances. Photocopying is billed at \$.15 per page. 29 C.F.R. § 1610.15. The attached Comments page will further explain any direct costs assessed.  
Please submit payment of \$ \$ 0.00 by either:

- (1) Credit card [pay.gov](http://pay.gov). Visa, MasterCard, American Express, and Discover credit cards are accepted. Debit cards bearing the Visa or MasterCard logo are also accepted. We will finish processing your request after EEOC receives a copy of your [pay.gov](http://pay.gov) credit or debit receipt or



(2) Check made payable to the United States Treasurer to the address above.

- ☐ [ ] Your appeal is closed for administrative reasons. An attachment to this letter further explains this closure.
- ☐ [ ] The records disclosed on appeal are enclosed. No fee is charged because the Commission shall not charge a fee ☐ [ ] for review at the administrative appeal level of an exemption already applied, or ☐ [ ] the cost of processing such fee equals or exceeds the amount of the fee. 29 C.F.R. §§ 1610.15 (a)(1) and (d).
- ☐ [ ] You should contact the District Office which responded to your request to obtain the documents disclosed on appeal. The District Director will determine whether fees will be assessed.
- ☒ [ X] If you are dissatisfied with this decision, you may file a civil action in the United States district court in the district where you reside or have your principal place of business, where the agency records are situated, or in the District of Columbia.

You may contact the EEOC FOIA Public Liaison, Stephanie D. Garner, for further assistance or to discuss any aspect of your appeal. In addition, you may contact the Office of Government Information Services (OGIS) to inquire about the FOIA mediation services they offer.

The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, email at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at (202) 741-5770; toll free 1-877-684-6448; or facsimile at (202)741-5769.

The contact information for the FOIA Public Liaison: (see contact information in the above letterhead or under signature line).

- ☒ [ X] See the attached Comments page for further information.

Sincerely,

\_\_\_\_\_/s/\_\_\_\_\_  
Kathleen Oram  
Assistant Legal Counsel  
Advice and External Litigation Division  
[FOIA@eeoc.gov](mailto:FOIA@eeoc.gov)

Applicable Sections of the Freedom of Information Act, 5 U.S.C. § 552(b):

**Exemption(s) Used:**

(b)(7)(C), Exemption (b)(7)(C) to the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(7)(C) (2016), as amended by the FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538, authorizes the Commission to withhold:

records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information . . . (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy . . . .

The seventh exemption applies to civil and criminal investigations conducted by regulatory agencies. *Abraham & Rose, P.L.C. v. United States*, 138 F.3d 1075, 1083 (6th Cir. 1998). Release of statements and identities of witnesses and subjects of an investigation creates the

potential for witness intimidation that could deter their cooperation. *National Labor Relations Board v. Robbins Tire and Rubber Co.*, 437 U.S. 214, 239 (1978); *Manna v. United States Dep't. of Justice*, 51 F.3d 1158, 1164 (3d Cir. 1995). Disclosure of identities of employee-witnesses could cause "problems at their jobs and with their livelihoods." *L&C Marine Transport, Ltd. v. United States*, 740 F.2d 919, 923 (11th Cir. 1984).

The Supreme Court has explained that only "[o]fficial information that sheds light on an agency's performance of its statutory duties" merits disclosure under FOIA, and noted that "disclosure of information about private citizens that is accumulated in various governmental files" would "reveal little or nothing about an agency's own conduct." *United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 773 (1989).

For the purposes of determining what constitutes an unwarranted invasion of personal privacy under exemption (b)(7)(C), the term "personal privacy" only encompasses individuals, and does not extend to the privacy interests of corporations. *FCC v. AT&T Inc.*, 131 S.Ct. 1177, 1178 (2011).

DOCUMENTS WITHHELD PURSUANT TO EXEMPTION (b)(7)(C):

Entire Charge File.

Comments

We are affirming the denial of your FOIA request because EEOC may not release the requested information to you or any other member of the public. To do so would violate the privacy interests of the parties to the charge you seek. Exemption (b)(7)(C) serves to exempt from FOIA disclosure information compiled for law enforcement purposes when disclosure would violate the privacy interests of individuals. Exemption (b)(7)(C) would not apply if releasing the charge would be required in order to meet the core public interest of the FOIA, which is to "shed[] light on an agency's performance of its statutory duties." *Reporters Committee for Freedom of the Press v. Department of Justice*, 109 S. Ct. 1468, 1481 (1989). Disclosure of this charge file does not "directly reveal government operations or activities," Department of Justice FOIA Update, Vol. X, No. 2 (1989), so your request "falls outside the ambit of the public interest that the FOIA was enacted to serve." *Reporters Committee*, 109 S. Ct. at 1482. Therefore, Exemption (b)(7)(C) bars from disclosure to you all portions of all documents in the charge file you seek, and redactions are not possible.

For a full description of the exemption codes used please find them at the following URL:

<https://publicportalfoiapol.eeoc.gov/palMain.aspx>